

April 25, 2024

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

CASE NO: 2-22-CV-005552-MSD-LRL

WHAT HURTS, LLC,

Plaintiff,

v.

VOLVO PENTA OF THE AMERICAS,
LLC,

Defendant.

VIDEOTAPED DEPOSITION OF CHARLES (CHUCK) HANSEN, IV
Pages 1 through 160
Appearing via Zoom Video-conference

Friday, April 25, 2024
10:14 a.m. - 1:09 p.m.
Eastern Daylight Time

Stenographically Reported By:
Elaine B. Tenn,
Registered Professional Reporter
Appearing remotely from Miami-Dade County, Florida

<p style="text-align: right;">Page 26</p> <p>1 Q. It looks like on my page 2 of that report and</p> <p>2 there's a question that says how is the vessel in</p> <p>3 immediate peril, and you have a quote here --</p> <p>4 A. That's Sean Phillips, not the owner but yes.</p> <p>5 Q. Okay. And it says taking on water, and I</p> <p>6 guess it's Sean Phillips said, quote, vessel would</p> <p>7 have sunk in 15 minutes if we did not arrive. Tanks</p> <p>8 on the vessel were full of gasoline, a thousand</p> <p>9 gallons, plus four outboards with oil?</p> <p>10 A. Yes. I almost vividly recall him saying five</p> <p>11 minutes but if it says 15 minutes, possibly. But</p> <p>12 maybe that was our opinion. Oh, no; I put quotes.</p> <p>13 As far as I can remember, I remember him</p> <p>14 telling me it was five minutes that it would have</p> <p>15 sank.</p> <p>16 Q. You said you put quotes. Is this your</p> <p>17 writing or was it Bryant's writing?</p> <p>18 A. Bryant's.</p> <p>19 Q. Okay. Very good.</p> <p>20 And it says why could the vessel not have</p> <p>21 been rescued without you, and it says no other tow</p> <p>22 companies around, no way of dispelling water, vessel</p> <p>23 becoming unstable and would capsize. Do you see that?</p> <p>24 A. Yes, yes. Once the buoyancy of the vessel is</p> <p>25 compromised, just the same way as sailboats stay</p>	<p style="text-align: right;">Page 28</p> <p>1 I've got a better picture of the vessel and a video.</p> <p>2 Let me -- well, we'll go to the end in just</p> <p>3 one second. Let's go through the rest of this report</p> <p>4 but I'll show you.</p> <p>5 Q. When you say the stern is below the water</p> <p>6 line, the engines are mounted on the aft, the stern of</p> <p>7 the boat; right? And so --</p> <p>8 A. Yes.</p> <p>9 Q. -- the stern is below the water line, the</p> <p>10 engines are definitely in the water, and that's what's</p> <p>11 being represented by that comment; correct?</p> <p>12 MR. WAGNER: Form.</p> <p>13 THE WITNESS: Absolutely. Yes.</p> <p>14 BY MS. PAUL:</p> <p>15 Q. And when we had talked about before the</p> <p>16 powerhead location, does this document and this note</p> <p>17 give you a better idea of how far or how deep the</p> <p>18 engines on this particular boat would have been down</p> <p>19 in the water when Fast Response first responded to the</p> <p>20 scene?</p> <p>21 A. Yes, it would. The -- yes, absolutely.</p> <p>22 For the stern to be under is -- that's kind</p> <p>23 of the minimum. That's where the -- the surface that</p> <p>24 the outboards are physically mounted to or they're</p> <p>25 tied to, the very top of that was already under water</p>
<p style="text-align: right;">Page 27</p> <p>1 upright by having a keel with a lead weight or</p> <p>2 counterweight to keep it upright, when the vessel</p> <p>3 becomes unstable, the powerheads become the</p> <p>4 counterweight and the vessel will immediately capsize,</p> <p>5 especially all outboard vessels in my opinion.</p> <p>6 Q. So in layman's terms, that's just a way of</p> <p>7 saying the aft portion of this boat is a lot heavier</p> <p>8 and so when it's sinking aft, it goes down much</p> <p>9 quicker because of the weight in the aft portion of</p> <p>10 the vessel; correct?</p> <p>11 A. Yeah, you can say that. It's pretty much the</p> <p>12 weight of the outboards is being supported by the</p> <p>13 water inside the hull. Once that water is displaced,</p> <p>14 it no longer provides lift and gravity kicks in and</p> <p>15 the outboards go straight down and upside down. The</p> <p>16 vessel would most certainly have capsized.</p> <p>17 Q. And then it looks like degree of danger, it</p> <p>18 says risk of sinking, risk of capsizing, and here it</p> <p>19 says nighttime, stern recow water line. Do you --</p> <p>20 A. No, stern below the water line.</p> <p>21 Q. Oh, stern below. What does that mean?</p> <p>22 A. I believe it's the -- the transom of the</p> <p>23 vessel that holds the outboards, that was under water</p> <p>24 already, the top of the outboards.</p> <p>25 Q. And let me just see -- hang on a second.</p>	<p style="text-align: right;">Page 29</p> <p>1 by several inches when I got there because in order</p> <p>2 for those trim switches that I was referencing</p> <p>3 earlier, typically five or six inches above the</p> <p>4 transom that the vessel -- that the engines are</p> <p>5 mounted to, that is what he's referring to is under</p> <p>6 water.</p> <p>7 Q. Okay. And so would it be correct to say that</p> <p>8 at least at that point upon first arrival by Fast</p> <p>9 Response, that the engines were submerged in water?</p> <p>10 A. I couldn't say the engines. I don't know at</p> <p>11 what -- where the powerhead's located inside the shell</p> <p>12 of the outside of the motor because all I could see is</p> <p>13 the outside. I don't know how high or low they're</p> <p>14 mounted. Possibly the bottom of the engines got under</p> <p>15 water, got submerged.</p> <p>16 Q. Okay. So let me rephrase.</p> <p>17 Is it possible a portion of the engines were</p> <p>18 submerged when Fast Response first arrived?</p> <p>19 A. Yes. Absolutely.</p> <p>20 Q. It says how do you know the vessel would have</p> <p>21 sunk, and there's a reference here to the water level</p> <p>22 was so close to filling in the back hatches. Is that</p> <p>23 what you were referring to before, that if that back</p> <p>24 hatch got filled, it would be a rapid sinking event?</p> <p>25 A. Yes. I believe the -- I'm not -- I'm not</p>



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<p style="text-align: right;">Page 50</p> <p>1 my recollection, the air-conditioning unit being under</p> <p>2 water as well.</p> <p>3 Q. Okay. And when you say submerged, do you --</p> <p>4 what is your definition of submerged as you use it in</p> <p>5 your report?</p> <p>6 A. That fire extinguisher in its entirety was</p> <p>7 under the water line. So the very top of the fire</p> <p>8 extinguisher would be covered in water.</p> <p>9 Q. Okay. So you wouldn't have listed that the</p> <p>10 engines were submerged in your definition because they</p> <p>11 weren't fully under water; correct?</p> <p>12 A. Well, we can't exactly -- without taking off</p> <p>13 the cover of the cowl and doing an inspection</p> <p>14 inside, see the actual water level inside the engine</p> <p>15 but it's possible. We don't know the exact</p> <p>16 orientation of the motor at that time. You know, it's</p> <p>17 hidden behind the cover.</p> <p>18 I could see the generator is not inside a box</p> <p>19 so I know where the generator is under water but the</p> <p>20 engines are kind of covered by a box so it's hard to</p> <p>21 tell if the mechanical workings got wet or not or</p> <p>22 where exactly they were but I can tell you where the</p> <p>23 water level was from the outside.</p> <p>24 Q. Right. And you talked about that earlier,</p> <p>25 you believing that the powerheads were under water</p>	<p style="text-align: right;">Page 52</p> <p>1 correct?</p> <p>2 A. Yeah. In my opinion, I would think some part</p> <p>3 of it is submerged but I don't -- I can't see. I</p> <p>4 don't have x-ray vision to see through the cowlings to</p> <p>5 see exactly what's submerged, if there's any vital</p> <p>6 components located that low on the motor that would</p> <p>7 make a difference. I can't -- I don't know the inner</p> <p>8 workings of that motor.</p> <p>9 Q. Okay. Let me -- would it help you if I was</p> <p>10 to show you a picture of these exact engines with the</p> <p>11 cowlings off?</p> <p>12 A. Sure. Maybe that can help.</p> <p>13 MR. WAGNER: Why don't you show him the</p> <p>14 picture that was taken that night, Christina?</p> <p>15 MS. PAUL: Because it's my deposition and</p> <p>16 I'll show him what I would like to show him.</p> <p>17 MR. WAGNER: There will be</p> <p>18 cross-examination.</p> <p>19 MS. PAUL: Okay, there will be</p> <p>20 cross-examination then.</p> <p>21 Don't interrupt my depo, Scott. You have</p> <p>22 a habit of doing that. I find it very, very</p> <p>23 unprofessional.</p> <p>24 MR. WAGNER: It's not unprofessional.</p> <p>25 BY MS. PAUL:</p>
<p style="text-align: right;">Page 51</p> <p>1 before you arrived --</p> <p>2 MR. WAGNER: Form.</p> <p>3 BY MS. PAUL:</p> <p>4 Q. -- that it was under the water line when you</p> <p>5 got there?</p> <p>6 MR. WAGNER: That's absolutely not what</p> <p>7 he said, Christina.</p> <p>8 BY MS. PAUL:</p> <p>9 Q. Is that correct?</p> <p>10 A. The trim -- the trim switches were in the</p> <p>11 water when I arrived or about that level, and I</p> <p>12 don't -- I don't have specific knowledge of Seven</p> <p>13 Marines or have seen them without their cowl cover</p> <p>14 off but if it was a normal outboard motor, maybe two</p> <p>15 or three inches of the powerhead would be under water</p> <p>16 but I do not know the inner workings of a Seven and</p> <p>17 know exactly how it's situated in the powerhead so I</p> <p>18 couldn't tell you with certainty.</p> <p>19 Q. Okay. And with respect to -- and I can see</p> <p>20 if I can find another -- let me go back to the shared</p> <p>21 screen here.</p> <p>22 What you just said was whether or not they</p> <p>23 were submerged but certainly, your testimony earlier</p> <p>24 about the water level and the why, what you saw with</p> <p>25 respect to the engines, that's all still the case;</p>	<p style="text-align: right;">Page 53</p> <p>1 Q. Is there a photograph in your file, Mr.</p> <p>2 Hansen, that would show the engines with the cowlings</p> <p>3 off from that evening?</p> <p>4 A. No. I don't think we ever got a picture of</p> <p>5 the cowlings specifically, let alone with them off.</p> <p>6 Q. Do you remember at all having the cowlings</p> <p>7 removed at any time that evening while you were there?</p> <p>8 A. I don't believe so. I don't remember. I</p> <p>9 think they did not.</p> <p>10 Q. Okay. Let's see something.</p> <p>11 When you arrived at Merrill Stevens, towing</p> <p>12 the boat, was there someone at Merrill Stevens to</p> <p>13 receive the boat or what happened when you arrived</p> <p>14 there?</p> <p>15 A. When we arrived there -- I was not there.</p> <p>16 Captain Bryant towed it I believe or -- I don't</p> <p>17 remember. I'm pretty sure he towed it by himself.</p> <p>18 Q. Okay. And who told you that it should go to</p> <p>19 Merrill Stevens; do you know?</p> <p>20 A. That would have been Sean Phillips. He would</p> <p>21 have had the arrangement with them because we don't</p> <p>22 make those determinations. It has to go with the --</p> <p>23 by the owner or whoever is the representative of the</p> <p>24 vessel makes that determination.</p> <p>25 Q. Okay. Let's go back to the document we were</p>

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<p style="text-align: right;">Page 158</p> <p>1 THE VIDEOGRAPHER: Let me take us off the</p> <p>2 video.</p> <p>3 The time is 5:29 UTC, 1:29 Eastern.</p> <p>4 THE COURT REPORTER: Are you ordering,</p> <p>5 Christina?</p> <p>6 MS. PAUL: Yes. Madam Court Reporter,</p> <p>7 can you send me your email address and I'll</p> <p>8 respond with the exhibits that I used.</p> <p>9 THE COURT REPORTER: Yes. I have put it</p> <p>10 in the chat.</p> <p>11 Do you want a copy, Mr. Wagner?</p> <p>12 MR. WAGNER: Yes, ma'am.</p> <p>13 (The deposition was concluded at 1:29 p.m.)</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 160</p> <p>1</p> <p>2 CERTIFICATE OF REPORTER</p> <p>3</p> <p>4 STATE OF FLORIDA)</p> <p>5) ss</p> <p>6</p> <p>7 COUNTY OF MIAMI-DADE)</p> <p>8</p> <p>9 I, Elaine B. Tenn, a Registered Professional</p> <p>10 Reporter, certify that I was authorized to and did</p> <p>11 stenographically report the video deposition of</p> <p>12 CHARLES (CHUCK) HANSEN, IV; that a review of the</p> <p>13 transcript was, was not requested; and that the</p> <p>14 transcript is a true record of my stenographic notes.</p> <p>15 I further certify that I am not a relative,</p> <p>16 employee, attorney, nor counsel of any of the parties,</p> <p>17 nor am I a relative or employee of any of the</p> <p>18 attorneys or counsel connected with the action, nor am</p> <p>19 I financially interested in the action.</p> <p>20 Dated this 30th day of April, 2024.</p> <p>21</p> <p>22</p> <p>23 </p> <p>24 Elaine B. Tenn, RPR</p> <p>25 Registered Professional Reporter</p>
<p style="text-align: right;">Page 159</p> <p>1</p> <p>2 CERTIFICATE OF OATH</p> <p>3</p> <p>4 STATE OF FLORIDA)</p> <p>5) ss</p> <p>6</p> <p>7 COUNTY OF MIAMI-DADE)</p> <p>8</p> <p>9 I, ELAINE B. TENN, a Registered Professional</p> <p>10 Reporter and a Notary Public in the State of Florida</p> <p>11 certify that CHARLES (CHUCK) HANSEN, IV personally</p> <p>12 appeared before me via Zoom video-teleconference on</p> <p>13 the 19th day of April, 2024 and was duly sworn.</p> <p>14 Signed this 30th day of April, 2024.</p> <p>15</p> <p>16 </p> <p>17 Elaine B. Tenn, RPR</p> <p>18 Notary Public, State of Florida</p> <p>19 Commission No.: HH339897</p> <p>20 Expires: February 6, 2027</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	